

MISSISSIPPI CODE OF 1972

As Amended

SEC. 21-27-201. Short title.

Sections [21-27-201](#) through [21-27-221](#) shall be known as the "Municipal and Domestic Water and Wastewater System and Nonhazardous Solid Waste Management Facilities Operator's Certification Act of 1992."

SOURCES: Laws, 1986, ch. 354, Sec. 1, eff from and after July 1, 1986. Laws, 1992, ch. 432, Sec. 1, eff from and after July 1, 1992.

SEC. 21-27-203. Definitions.

For purposes of Sections [21-27-201](#) through [21-27-221](#), the following terms shall have the meanings ascribed herein, unless the context shall otherwise require:

(a) "Association" means the Mississippi Water and Pollution Control Operator's Association, Inc.

(b) "Board" means the Mississippi State Board of Health.

(c) "Commission" means the Mississippi Commission on Environmental Quality.

(d) "Community water system" means any water system serving piped water for human consumption to fifteen (15) or more individual service connections used year-round by consumers or regularly serving twenty-five (25) or more individual consumers year-round, including, but not by way of limitation, any collection, pretreatment, treatment, storage and/or distribution facilities or equipment used primarily as part of, or in connection with, such system, regardless of whether or not such components are under the ownership or control of the operator of such system.

(e) "Operator" means the person who directly supervises and is personally responsible for the daily operation and maintenance of a wastewater facility, community water system or commercial

nonhazardous solid waste management landfill.

(f) "Person" means the state or other agency or institution thereof, any municipality, political subdivision, public or private corporation, individual, partnership, association or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or the United States or any officer or employee thereof.

(g) "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters, or the discharge of any liquid, gaseous, solid, radioactive or other substance or heat into any waters of the state.

(h) "Wastewater facilities" means pipelines or conduits, pumping stations, force mains, treatment plants, lagoons or any other structure, device, appurtenance or facility, whether operated individually or in any combination, used for collecting, treating and/or disposing of municipal or domestic wastewater, by either surface or underground methods, which is required to have a permit under the provisions of Section [49-17-29](#), Mississippi Code of 1972.

(i) "Waters of the state" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, situated wholly or partly within or bordering upon the state, and such coastal waters as are within the jurisdiction of the state, except lakes, ponds or other surface waters which are wholly landlocked and privately owned.

SOURCES: Laws, 1986, ch. 354, Sec. 2, eff from and after July 1, 1986. Laws, 1992, ch. 432, Sec. 2, eff from and after July 1, 1992.

1997 Amendment: Section 21-27-203, Mississippi Code of 1972, is amended as follows:

21-27-203. For purposes of Sections 21-27-201 through 21-27-221, the following terms shall have the meanings ascribed herein, unless the context shall otherwise require:

(a) "Association" means the Mississippi Water and Pollution Control Operator's Association, Inc.

(b) "Board" means the Mississippi State Board of Health.

(c) "Commission" means the Mississippi Commission on Environmental Quality.

(d) "Community water system" means a public water system serving piped water for human

consumption to fifteen (15) or more individual service connections used by year-round * * * consumers or regularly serving twenty-five (25) or more individual consumers year-round, including, but not limited to, any collection, pretreatment, treatment, storage and/or distribution facilities or equipment used primarily as part of, or in connection with, that system, regardless of whether or not the components are under the ownership or control of the operator of the system.

(e) "Nontransient, noncommunity water system" means a public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

(f) "Operator" means the person who directly supervises and is personally responsible for the daily operation and maintenance of a wastewater facility, community water system, nontransient, noncommunity water system or commercial nonhazardous solid waste management landfill.

(g) "Person" means the state or any agency or institution of the state, any municipality, political subdivision, public or private corporation, individual, partnership, association or other entity, including any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or the United States or any officer or employee of the United States.

(h) "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity or odor of the waters, or the discharge of any liquid, gaseous, solid, radioactive or other substance or heat into any waters of the state.

(i) "Wastewater facilities" means pipelines or conduits, pumping stations, force mains, treatment plants, lagoons or any other structure, device, appurtenance or facility, whether operated individually or in any combination, used for collecting, treating and/or disposing of municipal or domestic wastewater, by either surface or underground methods, which is required to have a permit under * * * Section 49-17-29.

(j) "Waters of the state" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, situated wholly or partly within or bordering upon the state, and such coastal waters as are within the jurisdiction of the state, except lakes, ponds or other surface waters which are wholly landlocked and privately owned.

SOURCE: 1997 Laws, Chapter 478, Sec. 1, HB1090, Effective July 1, 1997.

SEC. 21-27-205. Classification of community water systems and wastewater facilities; reciprocal arrangements for certification and training for operators of commercial nonhazardous solid waste landfills.

(1) The board shall classify all municipal and domestic water collection, storage, treatment and/or

distribution systems actually used or intended for use as community water systems according to size, type, character of water to be treated, number of service connections, and other physical conditions affecting the operation and maintenance of such systems, and also according to the degree of skill, knowledge, training and experience required of the operators of such systems to ensure competent, efficient operation and maintenance of such systems and protection of public health.

(2) The commission shall classify all municipal and domestic wastewater facilities according to size, type, character of wastewater to be treated, and other physical conditions affecting the operation and maintenance of such facilities, and also according to the degree of skill, knowledge, training and experience required of the operators of such facilities to ensure competent, efficient operation and maintenance of such facilities and prevention of pollution of waters of the state.

(3) The commission shall establish reciprocal certification arrangements with other states and private companies that establish training and certification programs for operators of commercial nonhazardous solid waste management landfills that meet or exceed the requirements of the commercial nonhazardous solid waste management landfill operator training and certification program established by the commission.

SOURCES: Laws, 1986, ch. 354, Sec. 3, eff from and after July 1, 1986. Laws, 1992, ch. 432, Sec. 3, eff from and after July 1, 1992.

1997 Amendment: Section 21-27-205, Mississippi Code of 1972, is amended as follows:

21-27-205. (1) The board shall classify all municipal and domestic water collection, storage, treatment and/or distribution systems actually used or intended for use as community water systems or nontransient, noncommunity water systems according to size, type, character of water to be treated, number of service connections, and other physical conditions affecting the operation and maintenance of those systems, and also according to the degree of skill, knowledge, training and experience required of the operators of those systems to ensure competent, efficient operation and maintenance of such systems and protection of public health.

(2) The commission shall classify all municipal and domestic wastewater facilities according to size, type, character of wastewater to be treated, and other physical conditions affecting the operation and maintenance of the facilities, and also according to the degree of skill, knowledge, training and experience required of the operators of the facilities to ensure competent, efficient operation and maintenance of the facilities and prevention of pollution of waters of the state.

(3) The commission shall establish reciprocal certification arrangements with other states and private companies that establish training and certification programs for operators of commercial nonhazardous solid waste management landfills that meet or exceed the requirements of the commercial nonhazardous solid waste management landfill operator training and certification program established by the commission.

SOURCE: 1997 Laws, Chapter 478, Sec. 2, HB1090, Effective July 1, 1997.

SEC. 21-27-207. Regulatory authority of Mississippi State Board of Health and Mississippi Commission on Natural Resources.

Both the board and commission shall have the authority to adopt, modify, repeal and promulgate, after due notice and hearing, and to make exceptions to and grant exemptions and variances from and to enforce such rules, regulations and procedures as are necessary or appropriate to effectuate the duties and responsibilities of these agencies arising under the provisions of Secs. [21-27-201](#) through [21-27-221](#). Such rules, regulations and procedures shall include, but not be limited to, provisions for the following: criteria for classifying municipal and domestic community water systems and wastewater facilities; qualifications for operators of community water systems and wastewater facilities; procedures for examining or testing applicants for operator certificates; procedures and fees for issuing, reissuing, modifying, revoking or terminating operator certificates; and reciprocal certification of operators certified in other states having certification requirements not less stringent than those established by the board and commission. Both the board and commission shall consult with the advisory committee established hereinafter in promulgating the rules, regulations and procedures required hereunder.

SOURCES: Laws, 1986, ch. 354, Sec. 4, eff from and after July 1, 1986.

1997 Amendment: Section 21-27-207, Mississippi Code of 1972, is amended as follows:

21-27-207. Both the board and commission may adopt, modify, repeal and promulgate, after due notice and hearing, and may make exceptions to and grant exemptions and variances from and may enforce those rules, regulations and procedures as are necessary or appropriate to effectuate the duties and responsibilities of these agencies arising under Sections 21-27-201 through 21-27-221. The rules, regulations and procedures shall include, but not be limited to, * * * the following: criteria for classifying municipal and domestic community water systems, nontransient, noncommunity water systems and wastewater facilities; qualifications for operators of community water systems, nontransient, noncommunity water systems and wastewater facilities; procedures for examining or testing applicants for operator certificates; procedures and fees for issuing, reissuing, modifying, revoking or terminating operator certificates; and reciprocal certification of operators certified in other states having certification requirements not less stringent than those established by the board and commission. Both the board and commission shall consult with the advisory committee established under this chapter in promulgating the rules, regulations and procedures * * *.

SOURCE: 1997 Laws, Chapter 478, Sec. 3, HB1090, Effective July 1, 1997.

SEC. 21-27-211. Requirement that operators hold certificates of competency; operation on interim basis.

(1) It is unlawful to operate or cause to be operated any wastewater facility or community water system covered under Sections [21-27-201](#) through [21-27-221](#) unless the operator of that facility or system holds a current certificate of competency issued by the board or commission, as

provided by Sections [21-27-201](#) through [21-27-221](#), in a classification corresponding to the classification of the facility or system. In the event of temporary loss of an operator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to either the board or commission, as the case may be, and the continued operation of the facility or system without a certified operator may proceed on an interim basis for a period not to exceed one hundred eighty (180) days, except for good cause shown upon petition to the responsible agency. The board or the commission, as the case may be, may grant, upon petition of the facility or system, an extension of the interim operating period not to exceed an additional one hundred eighty (180) days for good cause shown.

(2) It is unlawful to operate or cause to be operated any commercial nonhazardous solid waste management landfill permitted under Section [49-17-29](#) (3) unless the operator of that facility holds a current certificate of competency issued by the commission, as provided by Sections [21-27-201](#) through [21-27-221](#). However, in the event of temporary loss of an operator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to the commission and the continued operation of the facility without a certified operator may proceed on an interim basis for a period not to exceed one hundred eighty (180) days, except for good cause shown upon petition to the commission.

SOURCES: Laws, 1986, ch. 354, Sec. 6, eff from and after July 1, 1986. Laws, 1992, ch. 432, Sec. 4; 1995, ch. 603, Sec. 1; 1996, ch. 393, Sec. 1, eff from and after July 1, 1996

1997 Amendment: Section 21-27-211, Mississippi Code of 1972, is amended as follows:

21-27-211. (1) It is unlawful to operate or cause to be operated any wastewater facility or community water system covered under Sections 21-27-201 through 21-27-221 unless the operator of that facility or system holds a current certificate of competency issued by the board or commission, as provided by Sections 21-27-201 through 21-27-221, in a classification corresponding to the classification of the facility or system. After July 1, 1998, it shall be unlawful to operate or cause to be operated any nontransient, noncommunity water system covered under Sections 21-27-201 through 21-27-221, unless the operator of that system holds a current certificate of competency issued by the board. If an operator is lost due to illness, death, resignation, discharge or other legitimate cause, the owner or president of the governing board of the facility or system shall * * * immediately notify either the board or commission, as the case may be. * * * The facility or system may continue to operate without a certified operator * * * on an interim basis for a period not to exceed one hundred eighty (180) days, except for good cause shown upon petition to the responsible agency. The board or the commission, as the case may be, may grant, upon petition of the facility or system, an extension of the interim operating period not to exceed an additional one hundred eighty (180) days for good cause shown.

(2) It is unlawful to operate or cause to be operated any commercial nonhazardous solid waste management landfill permitted under Section 49-17-29 * * * unless the operator of that facility holds a current certificate of competency issued by the commission, as provided by Sections

21-27-201 through 21-27-221. However, in the event of temporary loss of an operator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to the commission and the continued operation of the facility without a certified operator may proceed on an interim basis for a period not to exceed one hundred eighty (180) days, except for good cause shown upon petition to the commission.

SOURCE: 1997 Laws, Chapter 478, Sec. 4, HB1090, Effective July 1, 1997.

SEC. 21-27-213. Certification of persons acting as operators as of July 1, 1986.

Notwithstanding any provision of Secs. [21-27-201](#) through [21-27-221](#) to the contrary, any person who is an operator of a municipal or domestic wastewater facility or community water system on July 1, 1986, may, on or before June 30, 1987, apply to the board or commission for, and shall be issued, an operator's certificate without examination or proof of other qualifications, provided the application is accompanied by an affidavit of the owner of the facility verifying the status of the applicant. Any certificate so issued shall be valid only for the particular facility being operated by the applicant, and then only so long as the facility remains in the same or a lower classification as at the time the application is filed.

SOURCES: Laws, 1986, ch. 354, Sec. 7, eff from and after July 1, 1986.

1997 Amendment: Section 21-27-213, Mississippi Code of 1972, is amended as follows:

21-27-213. (1) Notwithstanding any provision of Sections 21-27-201 through 21-27-221 to the contrary, any person who is an operator of a municipal or domestic wastewater facility or community water system on July 1, 1986, may, on or before June 30, 1987, apply to the board or commission for, and shall be issued, an operator's certificate without examination or proof of other qualifications, if the application is accompanied by an affidavit of the owner of the facility or system verifying the status of the applicant. Any certificate so issued shall be valid only for the particular facility being operated by the applicant, and then only so long as the facility remains in the same or a lower classification as at the time the application is filed.

(2) Notwithstanding any provision of Sections 21-27-201 through 21-27-221 to the contrary, any person who is an operator of a nontransient, noncommunity water system on July 1, 1997, may, before June 30, 1998, apply to the board for an operator's certificate without examination. The application shall be accompanied by an affidavit of the owner of the system verifying the status of the applicant. The board shall consider the performance history of any system operated by the applicant in determining whether to issue a certificate under this subsection. Upon review of the performance history and the application, the board may grant or deny the issuance of a certificate under this subsection. Any certificate issued under this subsection shall be valid only for the particular facility being operated by the applicant.

SOURCE: 1997 Laws, Chapter 478, Sec. 5, HB1090, Effective July 1, 1997.

SEC. 21-27-215. Certification of persons holding certificates of competency obtained through examination under voluntary certification program.

Notwithstanding any provision of Secs. [21-27-201](#) through [21-27-221](#) to the contrary, holders of valid certificates of competency obtained through examination under the voluntary certification program sponsored by the association may, on or before June 30, 1987, apply to the board or commission for, and shall be issued, an operator's certificate issued under the provisions of Secs. [21-27-201](#) through [21-27-221](#) without further examination or proof of other qualifications, provided such state-issued certificate shall be valid only for the class of facility covered by the association certificate.

SOURCES: Laws, 1986, ch. 354, Sec. 8, eff from and after July 1, 1986.

SEC. 21-27-217. Penalties; injunctive relief.

(1) Any person found by the board or commission, as the case may be, or any duly designated hearing officer appointed thereby, violating any of the provisions of Sections [21-27-201](#) through [21-27-221](#), or any rule or regulation promulgated by the board or commission hereunder, or any order issued by the board or commission in the exercise of their authority and duties hereunder, shall be subject to a civil penalty of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), for each violation, such penalty to be levied and assessed by the board or commission or designated hearing officer. Appeals from such actions may be taken as provided hereinafter. Each day upon which a violation occurs shall be deemed a separate and additional violation.

In determining the amount of any monetary penalty assessed hereunder, the board or commission or duly appointed hearing officer shall consider all factors bearing upon the violation, including but not limited to, any resulting actual or probable pollution of the lands and/or waters of the state and/or endangerment to public health, and the nature and extent thereof, any violation of the terms or conditions of permits issued by the board or commission for the affected facility, and any actual or probable damage to the affected facility caused by improper operation thereof.

(2) In lieu of, or in addition to, the penalty provided in subsection (1) of this section, the board and commission shall have power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of Sections [21-27-201](#) through [21-27-221](#), rules and regulations in force pursuant hereto, and orders and operator certifications made and issued hereunder, in the appropriate circuit, chancery, county or justice court of the county in which venue may lie. The board and commission may obtain mandatory or prohibitory injunctive relief, either temporary or permanent.

(3) Any person found guilty of violating any provision of Sections [21-27-201](#) through [21-27-221](#),

upon conviction, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) per day of violation.

SOURCES: Laws, 1986, ch. 354, Sec. 9, eff from and after July 1, 1986. Laws, 1992, ch. 432, Sec. 5, eff from and after July 1, 1992.

SEC. 21-27-219. Complaints; conduct of hearings; notice; issuance of subpoenas.

(1) Whenever the board or commission or an employee thereof has reason to believe that a violation of any provision of a regulation or of any order of the board or commission has occurred, the board or commission may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provisions of Secs. [21-27-201](#) through [21-27-221](#) or regulation or order alleged to have been violated and the facts alleged to constitute a violation thereof, and shall require that the alleged violator appear before the board or commission, or any duly designated hearing officer appointed thereby, at a time and place specified in the notice and answer the charges complained of. The time of appearance before the board or commission or designated hearing officer shall be not less than thirty (30) days from the date of the service of the complaint.

(2) The board or commission or designated hearing officer shall afford an opportunity for a fair hearing to the alleged violator or violators at the time and place specified in the complaint. On the basis of the evidence produced at the hearing, the board or commission or designated hearing officer shall make findings of fact and conclusions of law and enter such order as in its opinion will best further the purposes of Secs. [21-27-201](#) through [21-27-221](#) and shall give written notice of such order to the alleged violator, and the board or commission or designated hearing officer may assess such penalties as hereinbefore provided.

(3) Except as otherwise expressly provided, any notice or other instrument issued by or under authority of the board or commission or designated hearing officer may be served on any person affected thereby personally or by publication, and proof of such service may be made in like manner as in case of service of a summons in a civil action, such proof to be filed in the office of the board or commission; or such service may be made by mailing a copy of the notice, order or other instrument by certified mail, directed to the person affected at his last known post office address as shown by the files or records of the board or commission, and proof thereof may be made by the affidavit of the person who did the mailing, filed in the office of the board or commission.

(4) In conducting the hearings provided in this section, any member of the board or commission, or the chief administrative officer thereof, or the duly designated hearing officer, shall have the authority to issue subpoenas to appear and give testimony, to produce records, or both, and in case of contumacy or refusal to obey a notice of hearing or subpoena issued hereunder, the circuit court shall have jurisdiction upon application of the board or commission or its representative to